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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. <u>93-87</u>
)	
RAYMOND W. CLANTON)	File No. BPH-911216MC
)	
LOREN F. SELZNICK)	File No. BPH-911216MD
)	
For Construction Permit)	
for a new FM Station on)	
Channel 279A in El Rio,)	
California)	

To: Administrative Law Judge
John M. Frysiak

OPPOSITION TO SECOND MOTION TO ENLARGE THE ISSUES

Raymond W. Clanton, by his attorney, respectfully opposes the Second Motion to Enlarge the Issues, filed by Loren F. Selznick on September 23, 1993, in the above-captioned proceeding. In support thereof, the following is shown.

Selznick requests three issues. First she asks to inquire whether Clanton was financially qualified when he so certified in his original application, filed December 16, 1991, or in his amendment of May 4, 1992. Second, she seeks to determine whether Clanton's financial certification was a misrepresentation, or lacked candor. Finally, Selznick requests an issue as to whether Clanton misrepresented facts or lacked candor in supplying a document representing a written assurance of funding from his wife.¹ Selznick's

¹ Selznick fails to present any facts which cast doubt upon this document. As a result, Clanton has nothing to rebut, and need not further address this entirely speculative matter.

motion is entirely speculative, is wholly lacking in merit, and should be denied in its entirety.

Selznick's motion is untimely. She claims that Clanton's petition for leave to amend of September 7, 1993, constituted "newly discovered evidence", which triggered the 15-day period for filing a petition to enlarge issues under Section 1.229 of the Commission's rules. However, the statement of Mrs. Clanton was provided to Selznick among the documents produced by Clanton to her counsel on August 31, 1993. Nothing in Clanton's amendment suggests he was not financially qualified when he filed his application.

Substantively, Selznick offers nothing but unfounded speculation to support any of her allegations. She asserts that Clanton may not rely upon the \$86,000 from his wife because she was not stated as a source of financing in his application. However, by Memorandum Opinion and Order, FCC 93M-622, released September 29, 1993, the presiding ALJ accepted Clanton's amendment. Accordingly, Clanton is entitled to rely upon his wife's funds, if necessary.

Selznick argues that Mrs. Clanton's letter of December 10, 1991, is unclear whether the funds would be provided as a gift, loan, or equity investment. Selznick fails to attach a copy of this letter, rendering her argument incomplete. Clanton filed a copy in connection with his amendment, as ordered by the presiding ALJ, but such action does not relieve Selznick of the burden of making a prima facie case in her own

motion. In any event, attached hereto is the statement of Raymond Clanton confirming that the funds will be a gift, with no strings attached.

In this regard, the presiding ALJ has already ruled, in his Memorandum Opinion and Order of September 29, 1993, that acceptance of Clanton's amendment will not result in the addition of issues.

Selznick has failed to present any facts to warrant issues regarding Clanton's financial certification.

Accordingly, the Second Motion to Enlarge Issues, filed by Loren F. Selznick, should be summarily denied.

Respectfully submitted,

RAYMOND W. CLANTON

By 

Jerrold Miller
His Attorney

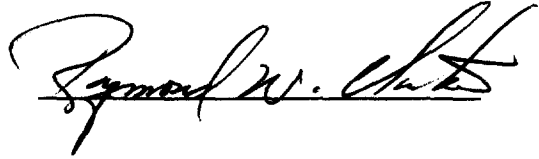
October 5, 1993

Miller & Miller, P.C.
P.O. Box 33003
Washington, DC 20033

STATEMENT

I have read the Second Motion to Enlarge Issues against me filed by Loren F. Selznick and am aware that she questions the terms by which my wife agreed to provide funds to me for the construction and operation of my El Rio, California FM station. I wish to state that she will give me the funds with no strings attached. They will not be a loan, and she will have no equity in the station. I believed this was clear from her letter, but I make this statement to remove any doubt.

I certify under penalty of perjury that the above statement is true and correct.

A handwritten signature in cursive script, appearing to read "Samuel W. Chute", written over a horizontal line.

Date: 10-4-93

CERTIFICATE OF SERVICE

I hereby certify that on this 5 day of October, 1993,

a copy of the foregoing document was hand delivered to the following:

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